

OCT 29 2009

Hon. Marilyn Hall Patel  
U.S. District Court for the Northern District  
of California 450 Golden Gate Ave.  
San Francisco, CA 94102

Mr. John D. Hinkell  
2451 Midtown Ave  
Alexandria, VA 22303

**FILED**  
OCT 29 2009  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

Re: Foley v. Kudelski, 09-04896

Dear Judge Patel,

Recently, I received a letter from the Kudelski Group regarding a tender offer for my Class A shares and investment in Open TV Corp (NASDAQ:OPTV). I was shocked at the tone of the letter. It was threatening, coercive and predatory and attempted to strike fear in me to involuntarily tender my shares. In the letter, The Kudelski Group threatened to delist OPTV making any non-tendered shares illiquid, thereby suggesting that I had no choice to tender my shares or face holding stock with an undetermined value.

I own approximately 41,287 shares in three accounts including my children's college fund at an estimated average share price of \$2.45. As a matter of background, an independent special committee was formed several months ago to determine fair value of OPTV Class A stock. It has been widely reported in the press that the independent special committee determined that fair value was in the \$2.00 range. Open TV is a growing company with 111 million in cash and reoccurring net-income positive earnings.

The Kudelski group refused to pay fair value as determined by the special independent committee and instead has engaged in a form of predatory coercion to threaten and intimidate shareholders as leverage to force OPTV shareholders to act as the Kudelski Group has ordered. It is hard to imagine that the Kudelski Group has acted in this manner despite the billions of dollars that have been scammed from United States investors in the highly publicized Wall Street scams of this past year.

It is my hope that the Court will act to protect the interests of United States shareholders and provide relief from these predatory and coercive tactics being used by the Kudelski Group.

Sincerely,

  
John D. Hinkell 26 OCT 2009

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